

Case No. 1:13-cr-135 (and its variations and derivatives of syntax)
UNITED STATES OF AMERICA v JOHN FALL

FILED

2015 JAN -7 P 3:00

To: John J. McConnell, Jr. c/o 'Federal Court'
1 Exchange Terrace, Providence, Rhode-Island 02903
by way of Certified Mail 7014 2870 0002 2963 0405

To: John N. Kane, Jr. c/o U.S. Department of Justice, Tax Division, 601 D Street, N.W.
7th Floor, Washington, D.C. 20530 by Certified Mail 7014 2870 0002 2963 0399

From: John Joseph Fall, [a] man; c/o temporary address: 108 Princess Avenue,
Cranston, Rhode Island 02920 401-264-0556

Regarding: 1:13-cr-135 (and its variations and derivatives of syntax)
in regards to UNITED STATES OF AMERICA v JOHN J FALL

Date: January 6, 2015

U.S. DISTRICT COURT
DISTRICT OF RHODE ISLAND

Declaration in the Nature of an Affidavit vindictive and malicious prosecution

Affirmation;

Statements of Facts;

Dispute; Conclusion

AFFIDAVIT/JURAT CERTIFICATE

Notice to Agent(s) is Notice to Principal(s), Notice to Principal(s) is Notice to Agent(s)

Preamble, in regards to said case 1:13-cr-135: i require all public servants with an oath to the United States of America and said John N. Kane, Jr. ("You", "Your") to protect My right to not be subject to involuntary servitude, My right to contract and not contract with whom i choose, My right to be presented with the nature and cause of accusation supported by oath or affirmation, My right to redress of grievances, My right to be deprived of life, liberty or property without due process of law, My right to confront all accusers (e.g.: accuser/Plaintiff must appear with face for cross examination), My right to equal protection and My right to defend i and property by way of settling all matters of controversy which affect i and/or property, solely in 'court of record' in accord to 'common law', being independent of the magistrate and without affect by acts of legislature (statutes, codes, rules, & regulations); and where **both the facts and law** are judged solely and exclusively by a 'trial by jury' in a 'court of record'; and not otherwise; (see 7th and 9th Amendment to federal Constitution (a.k.a. Article 7 and 9 of Bill of Rights) of the United States); and see Article 6 Clause 2 therein; End of preamble.

Exhibits adjoined and incorporated to this document:

Exhibit A is a true copy of an email that i received from Congressman, Dave Camp

Exhibit B is a true copy of a letter i received from said Congressman, Dave Camp

Exhibit C A list of different Kinds of Tax in 1939 Statute At Large Vol 53

Exhibit D A list of the different kinds of tax in [prima facie] U.S.C. Title 26

Exhibit E 4 letters from Doctors and picture of My chest operation (5 pages)

Affirmation

i, [a] man, with appellation John Joseph Fall, being duly sworn and over eighteen (18) years of age do hereby make the following statements of facts in living voice before a notary witness, as My whole and complete truth without intent to mislead, on My unlimited liability; and i will verify all the following statements of fact in living-voice in court:

Statements of facts

1. That i require said John N. Kane, Jr., and UNITED STATES OF AMERICA ("You", "Your"), to provide to i, a proper and responsive rebuttal to each every point in this document, under oath or affirmation as firsthand knowledge, within the sooner of a) at least 2 days prior to any hearing and or trial, or b) three **(3) days** from of delivery-receipt and/or tracking indicating your receipt of this document, plus one day for You to send overnight mail to i (4 days total); Cf. McNally v United States 483 U.S. 350 (1987) re "Fraud";
2. For and on the record, that i make all of My statements herein and in all other 'Declarations in the nature of an Affidavit ...' which i proffer, for and on the record; and on My unlimited liability;
3. That failure to rebut each and every point in this and said other 'Declarations in the nature of an Affidavit ...' which i proffer, indicates unreserved and unconditional agreement to such point(s) and that said points stand as uncontroverted evidence;
4. That My beliefs are My facts; (Cf. West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943));
5. That i have neither seen nor been presented with any contrary and verifiable evidence and likewise any material fact which demonstrates that the 'common law' is other than the supreme law of the land; and i believe none exists;
6. That i require all matters of controversy which affect i and/or My property must be settled in said 'court of record' in accord to 'common law', independent of the Magistrate (/Judge) and unaffected by the will of the legislature (codes, rules, regulations, statutes) and not otherwise; and i have neither seen nor been presented with any contrary and verifiable evidence and likewise any material fact; and i believe none exists;
7. That all of My rights come from God, the creator of the universe; and not otherwise;
8. That i have not knowingly waived any of My Rights, and will not waive My rights; including but not limited to My right to time;

9. That since inception of said case, and at all times, i require all of My rights be secured and protected without exception, by all [wo]man who act as public servants, including but not limited to Clerks, Magistrates, Judges executive administrators, prosecutors and U.S. Marshalls;
10. That, in regards to said case, i am not subject to, nor do i subscribe to, rules, codes, regulations, statutes, 'Federal Rules of Civil Procedure' and the like, 'Federal Rules of Criminal Procedure' and the like, "Federal Rules of Evidence" and the like; and i have neither seen nor been presented with contradictory and verifiable evidence and likewise any material fact; and i believe none exists

General Overview

11. That **i have not been presented with a lawful (5th Amendment) INDICTMENT supported by oath or affirmation** (see 4th Amendment); rather i have been handed a copy (not an original) containing **merely unsworn opinions** of multiple man who indicate being [agents] of the Department of Justice;
12. i believe said opinions made by such man are neither basis for, nor a cause for, an action in any court; and i have neither seen nor been presented with any contrary and verifiable evidence and likewise any material fact; and i believe none exists; not only do i belief that said INDICTMENT and opinions are not cause for an action , but appears other professionals in law do too:

NOTICE: **"Statements of counsel in brief or in argument are not sufficient for motion to dismiss or for summary judgment."**

Trinsey v. Pagliaro, D. C. Pa. 1964, 229 F. Supp. 647.

NOTICE: **"As we have said of other unsworn statements which were not part of the record and therefore could not have been considered by the trial court: "Manifestly, [such statements] cannot be properly considered by us in the disposition of [a] case."**

Adickes v. Kress and Co., 398 U.S. 144 – 158, n. 16

13. i believe said opinions are an act of fraud to create the appearance that an genuine INDICTMENT exists where none does; and i have neither seen nor been presented with any contrary and verifiable evidence and likewise any material fact; and i believe none exists;
14. That i believe and offer evidence of My belief below, that the multiple [wo]man who sometimes work at the Internal Revenue Service ("IRS") and at the Department of Justice have knowingly targeted i, [a] man, John Joseph Fall, JOHN J FALL and My marital estate (Comfort Dental, Broad Street Investments, LLC and CARMEN D. SANCHEZ) to retaliate for the many complaint letters, IRS form 911's and 1203 Allegation Referral forms i have filed against said IRS [wo]man; and i have neither seen nor been presented with verifiable evidence and likewise material fact that contradicts the substance of My said beliefs; and i believe none exists;

NOTICE: For details of the harm, injury and loss that has resulted by said targeting, please paragraphs 95 to 113 below and My much more detail in My '**Declaration in the Nature of an Affidavit for Summons to 'Fall Court', for Harm to i and Injury to My property'** filed into this case;

NOTICE: i can provide copies of said: complaint letters, IRS form 911 and 1203 which i began filing in Year 2005 and continued filing to and including Year 2013; plus i can provide responses to Freedom of Information Act requests that show the IRS and Tax Inspector General received said complaints, et cetera;

15. Against certain IRS workers, i filed six "911 Forms" - "Request for Taxpayer Advocate Service Assistance".
16. Against certain IRS workers, i filed six "1203 Allegation Referral Forms" (which are essentially criminal complaints) against them - reporting their fraud against my family. Please Google those forms;
17. In addition to My filings, i also wrote letters to the all of the following officials, seeking administrative remedy, and received no responsive reply:
 - a) Two Commissioners of the IRS (three times); The Secretary of the Treasury in Washington (twice);
 - b) The Secretary of the Treasury in Puerto Rico (twice);
 - c) the Deputy Secretary of the Treasury in Washington;
 - d) The U.S. Secretary of State Hillary Clinton (twice);
 - e) the Assistant Commissioner International for the IRS;
 - f) the Tax Inspector General of Tax Administration (3 times),**
 - g) the National Taxpayer Advocate (twice);
 - h) The local Rhode Island Taxpayer advocate (3 times),
 - i) The District Director for New England area; Deborah Ngo, Territorial Manager; Jodonna Powell, Territorial Manger.
18. Of the many said complaint letters, 911 and 1203 letters, i **have never received a responsive reply**; For detailed explanation, PLEASE READ My 'Declaration in the Nature of an Affidavit of obstruction and trespass against My right to due process of law'; and especially read Exhibit 3 adjoined thereto; all of which is filed into said case;
19. That said targeting is not unique to i, JOHN J FALL and My marital estate;

NOTICE:

<https://www.youtube.com/watch?v=nbBlzwSwD7I> (Congressman Darrell Issa re Lois Lerner)
<https://www.youtube.com/watch?v=cISSoVljyUc> (Catherine Engelbrechth testifies before Congress)
<https://www.youtube.com/watch?v=1hJNVV4SHqM> (Congressman Paul Ryan)
https://www.youtube.com/watch?v=qTt_Uy8VxY8 (Congressman Paul Ryan)
<https://www.youtube.com/watch?v=fygKDAAdYQac> (Victims of IRS targeting testify before Congress)
<https://www.youtube.com/watch?v=Xz9oJDz-xl8> (Tax Attorney testifies about IRS & DOJ before Congress)

<https://www.youtube.com/watch?v=UoOljQAcRK4> (Catherine Engelbrech testifies before Congress II)
<https://www.youtube.com/watch?v=q-0lyLud5D0> (Judge Andrew Napolitano)
https://www.youtube.com/watch?v=SPIYC1zq_co (Fox News: Frank Vandersloot - targeted by IRS)
https://www.youtube.com/watch?v=lw_FxBuN-4M (Fox News)
tinyurl.com/nsjzrx5 (Congressman Darell Issa)
www.bit.ly/14xV3Sn (Congressman Elijah Cummings)
www.bit.ly/16rOyD0 (Congressman Mike Kelley)
<https://www.youtube.com/watch?v=MDevz5uBd5o> (Congressman Darell Issa re Lois Lerner)
<https://www.youtube.com/watch?v=qKtu2IKyCYE> (Congressman Trey Gowdy re Lois Lerner)
<https://www.youtube.com/watch?v=eov27SU96VE> (Fox News on Targeting)
<https://www.youtube.com/watch?v=Ax6QGmKhRwo> (Congressman Jason Chaffetz re Lois Lerner)
<https://www.youtube.com/watch?v=uq1Z9IDLpaQ> (Fox News; Mysterious missing emails of IRS)
www.youtube.com/watch?v=vj-IekmExks (Eric Holder, head of the Department of Justice)
<https://www.youtube.com/watch?v=52-QGp52gks> (Fox News: DOJ says too difficult)
<https://www.youtube.com/watch?v=gWuEZWHuu-w>
www.youtube.com/watch?v=b8Pvjh-EOqk

20. I also wrote letters reporting the crimes of the IRS agents against i and My marital estate to the following:

Congressman Bob Goodlatte, Chairman, House Judiciary Committee, and

Congressman Darrell Issa c/o Committee on Oversight and Government Reform

Congressman David Camp, Chairman of House Ways and Means Committee,

... and I wrote letters to several individual Congressman and Senators Including the following) who were involved with investigating the IRS in year 2013 for targeting pro-Constitution types like myself:

21. The adjoined Exhibit A is a true copy of an email that i received from Congressman, Dave Camp, Chairman of the Ways and Means Committee as a result of My getting on his email subscriber list due i to a complaint letter i filed with him regarding IRS targeting JOHN J FALL and My marital estate for My pro-Constitution beliefs;
22. The adjoined Exhibit B is a true copy of a letter i received from said Congressman, Dave Camp as a result of My filing a complaint with him regarding IRS targeting JOHN J FALL and My marital estate for My pro-Constitution beliefs;
23. **In tape-recorded IRS summons in year 2009, Ken Cournoyer, IRS agent, asked me if I was a member of the Save A Patriot organization and I believe he asked if I was a member of other such pro-Constitution organizations; NOTICE: i have the tapes; NOTICE: www.save-a-patriot.org/**
24. i believe i told him i bought books from the Save-A-Patriot Fellowship and that i was proud member of the John Birch Society; both are pro-Constitution groups;



25. I believe Ken Cournoyer's questions into My political affiliations is a blatant targeting effort; and i have neither seen nor been presented with any contrary and verifiable evidence and likewise any material fact; and i believe none exists;

First phase of vindictive and malicious prosecution for retaliation

26. Before 1998, i paid the so-called voluntary income tax without any contract to so;
27. In 1998 i lost \$100,000.00 as a loan to a foreign citizen (a friend of my wife Carmen's family);
28. That My wife is a witness to said loss and i have 3 original letters in My possession, which prove the loss with original signatures by William Genoa who lost the money, and which i provided to Diane Riley, IRS agent;
29. In early year 2001, i asked IRS which OMB tax form is correct for that **type** of tax loss, and which type of tax applied;
30. On or near June, 2001 the first demand letter from IRS to My person, JOHN J FALL, gave 3 notices of different "type of tax":

On the 1st page, about 6th paragraph it states " a different type of tax"

On the 1st page, last paragraph it states: "... the type of tax ..."

On the 2nd page, 1st paragraph it states: "... A RETURN of the type of tax ...".

NOTICE, IMPORTANT: see Exhibit C and Exhibit D adjoined to this document for many different types of tax;



31. That looking back over the last 15 years, i believe that letter, in addition to the Tom Quinn, IRS letter below, became the foundations of the next 13 years of IRS persecution against i because they would not answer my 16 letters asking *which kind or type of tax* applied to My person, JOHN J FALL; and as a result i filed many complaint letters to many high ranking officials who oversee the IRS (i have many of said letters in My possession with proof of service);

NOTICE: For a detailed summary description of said "16+ letters", see Exhibit D" in My '**Declaration in the Nature of an Affidavit in support of no civil and no criminal liability against JOHN J FALL:**' filed into said case;

NOTICE: to see the harm and injury that resulted, please see paragraphs 95 to 113 below and see My "Declaration in the Nature of an Affidavit for Summons to 'Fall Court", for Harm to i and Injury to My property" already filed into said case;

32. i believe that at all times i acted of good faith seeking resolution;
33. After receiving that June 21st, 2001 letter (which gave 3 notices of different "type of tax"), i searched the internet for an advisor since, at the time, i was unaware that there were different types of income tax;

34. On the internet, i found information that led me to believe that the Save-A-Patriot Fellowship, a pro-Constitution group, could help me write a letter to the IRS to learn which type of tax form to file and which type of tax to pay;
35. **i did not realize until years later, the Save-A-Patriot fellowship was being targeted by the IRS and Department of Justice; NOTICE: www.save-a-patriot.org**
36. Two months after i received said June, 2001 demand letter from the IRS, i caused a letter prepared and signed by John Kotmair of said Save-A-Patriot fellowship, on My behalf, and be sent on Aug 2001 to Tom Quinn, IRS agent, requesting the correct OMB tax form [for said \$100,000.00 i lost to a foreign citizen];
37. That [shockingly] Tom Quinn, IRS agent never responded to My said Aug, 2001 letter; **he ignored my letter;**
38. **That i believe Tom Quinn ignoring My letter is a felony since it obstructs collection of a tax; Cf. 26U.S.C §7201, 26U.S.C 7214(a)(3), 26U.S.C 7214(a)(8);**
39. That [amazingly] TEN YEARS LATER, Tom Quinn became My wife's attorney, aiding with her divorce against Myself due to IRS pressure; [see details below about how IRS employee threatened her to divorce me];
40. In My said letter, i provided a table for IRS forms which i believed was law enacted by Congress, which i saw and believed showed IRS form 1040 did not cross-reference to Title 26 Subtitle A for income tax; see **'Declaration in the Nature of an Affidavit regarding 'IRS Form 1040'** filed into said case;

[therefore:]
41. In My said Aug. 2001 letter to said Tom Quinn, i also offered **that he could file the return** (on page 3, 2nd to last sentence); and i provided proof of that \$100k loss to the IRS by way of postal money order receipts and bank money order receipts;
42. Then ... THREE YEARS LATER (after Tom Quinn, IRS agent ignored by request for help): On or about May 2004 i received a letter typed signed by "Wesley Gillis" on IRS letterhead from the same Andover, Massachusetts office as said Tom Quinn, IRS agent (who ignored my letter asking for help to file the correct tax form in year 2001);
43. Mr. Wesley Gillis' letter specifically demanded that JOHN J FALL file form "1040" again; however, i had not yet received the final documentation of My lost loan money from the imprisoned William Genao who absconded My said \$100,000.00; i was waiting on the FBI agent who handled his case in New York to respond to me;
44. i believed that Wesley Gills letter was a threat to me;
45. Additionally, i was suspicious of Wesley Gillis since, he didn't sign the letter and was demanding the particular 1040 form without demonstrating he was aware of My unique situations of said \$100,000.00 lost to a foreign citizen (William Genao, a friend of My wife's family) described above; and he didn't specify the 'KIND OF TAX' that was applicable (see 1st column of IRS forms 4490, 668-A, 668-B, 668-Y all show a space for indicting "Kind of Tax");

46. Plus, since he was from the same office as Tom Quinn who had ignored My request to file the correct tax form, i believed said Wesley Gillis should have seen in the IRS computers that Thomas Quinn, Area Director of his office never responded to my request to file the correct tax form; and never addressed the issue of the 1040 form not corresponding to Chapter 1 for income tax. in the OMB table in 26CFR §602.601(year 1998); for more detail see My ' for more detail, please see '**Declaration in the Nature of an Affidavit regarding 'IRS Form 1040'** filed into said case;
47. So I did a freedom of information act request to find out who this Wesely Gillis was, and i received a response from the IRS Disclosure Office which indicated there was no employee working for the IRS named "Wesley Gillis"! This confirmed my suspicions that a crime was in progress;
48. i can provided a copy of said response to My Freedom of Information Act request;
49. As a result of the terror I felt from Tom Quinn, Area Director ignoring my request for help to file the correct form in August 2001 ... and now ... his co-worker impersonating the non-existent Wesley Gillis sending me a threatening letter in May 2004, i believed i had to file the wrong tax form 1040 under threat and duress - even though i saw it is was not shown in the Congressional law at 26CFR §602.601(year 1998) - the OMB Table of tax forms; for more detail, please see '**Declaration in the Nature of an Affidavit regarding 'IRS Form 1040'** filed into said case;
50. So it is My belief that i was forced to break the law by filing a bogus tax form not authorized by Congress; and i have neither seen nor been presented with any contrary and verifiable evidence and likewise any material fact; and i believe none exists;
51. And i have therefore given notice to [wo]man who sometimes work at the IRS and the Department of Justice of of 42 USC §3512(b) Public Protection;

Second phase of vindictive and malicious prosecution for retaliation

52. On or near February, 2005, i received IRS form 4549 appearing to ask for thousands of dollars based on disallowing My said \$100,000.00 loss and other items;
53. Since said form 4549 was unsigned and did not bear the official Seal of the 'Treasury Department' per Treasury Order 100-01 and was not sworn as true i believed it was merely fraudulent effort by Diane Riley to trick me into accepting the disallowance of said \$100,000.00 loss;
54. Since, based on My experience with said Tom Quinn and said Wesley Gillis, i believed that said unsigned form 4549 was merely the trick and opinion of Diane Riley, i returned it as "accepted as true" to avoid controversy with her unsigned and unsworn opinions;
55. i wanted to avoid controversy to avoid treating said form 4549 as a legitimate assessment, since it did not bear the official Treasury Seal and a signature, as said); i can provide a copy of said form 4549;

56. i saw that Diane Riley cited IRC section 6651 as her authority in said Form 4549;
57. i saw that said section 6651 cross-referenced in the 'Parallel Table of Authorities and Rules' to 27CFR, Part 70, sections §70.71, §70.72, §70.51, §70.81 under title of "Alcohol, Tobacco Products and Firearms" (i can provide exhibits of that Table and all those sections);
58. Said sections only named an "authorized TTB Officer" yet, Diane Riley indicated in that form 4549 that she was an "Internal Revenue Agent"; For more detail on what and how i saw that all demands pertaining to JOHN J FALL were for the wrong kind of tax;

NOTICE: for a more detailed exposure, please see My '**DECLARATION IN THE NATURE OF AN AFFIDAVIT in Support of no criminal and no criminal liability against JOHN J FALL;**' which is filed into this case

59. Seeing the conflict between her title [IRS agent vs TTB Officer] and that the heading of the regulations at said 27CFR Part 70 showed "Alcohol, Tobacco Products and Firearms" which i was not involved in, i decided to obtain a Freedom of Information Act response from the IRS Disclosure office, to learn of Diane Riley's authority to issue a tax assessment;
60. Seeing the conflict between her title [IRS agent vs TTB Officer] and that the heading of the regulations at said 27CFR Part 70 showed "Alcohol, Tobacco Products and Firearms" which i was not involved in, i decided to obtain a Freedom of Information Act response from the IRS Disclosure office, to learn of Diane Riley's authority to issue a tax assessment;
61. In response to My said Freedom of Information act request, in regards to the integrity and authority of Diane Riley to propose an assessment by way of Form 4549 dated 2/11/2005, i received a response F-10267-0051 from the IRS Disclosure office which was dated November 16, 2013, which stated in part:

" You asked for "... a copy of any and all document(s) evidencing authorization given by the District Director (or Territorial (sic) Manager if lawful) for the appointment of an "Assessment officer" which resulted in any and all assessments against you". ... Regulation 301.6203-1 grants authority to the District Director or Territory Manager (TM) to appoint an assessment officer. The regulation is evidence that District Director or (TM) has the authorization to appoint an assessment officer. I have re-read your request and am unable to determine which records if any would be responsive to your request."

[emphasis added by me]

notice: i can provide copy of said response;

IRS form 4490; 'Proof of Claim' form

62. Once i saw that the IRS Disclosure office was unable to provide records to demonstrate Diane Riley had authority to issue an assessment, i then, as an added layer of effort to check the integrity and authority of said Form 4549 prepared by Ms. Diane Riley, i did another Freedom of Information Act request seeking a

completed and signed official IRS form 4490 "Proof of Claim for Internal Revenue Taxes" and i received a response dated November 13, 2013 (F14291-0229) which stated:

***"You asked for a copy of the official IRS form 4490 tax years 1999¹² to 2012¹².
I found no documents specifically responsive to your request.***

[Emphasis and de-emphasis added]

Notice: i can provide copy of said response;

63. Nowhere in that response nor any letters from the IRS sent to i, is there any kind of indication that IRS form 4490 was inapplicable to the tax debts alleged against JOHN J FALL;
64. i have neither seen nor been presented with any evidence and likewise any material facts which demonstrate that IRS form 4490 is inapplicable the alleged tax debts against JOHN J FALL;
65. Therefore i believed and concluded: that the form 4549 was an invalid document, being unsigned, without a Treasury Seal (per Treasury Order 100-01) and for the wrong kind of tax, "**Alcohol, Tobacco Products and Firearms**"; and motivated by the same retaliation i experienced when IRS agent Tom Quinn ignored My request for help to pay the correct "type of tax", and when i received a demand letter from the non-existent Wesely Gillis, from the same IRS office as said Tom Quinn, all as said above;

Third phase of vindictive and malicious prosecution for retaliation

66. On or about June 2008 the IRS commenced an audit of My marital estate (Comfort Dental, Broad Street Investments, LLC and CARMEN D. SANCHEZ);
67. i saw that the audit was grueling, expensive and exhaustive to My marital estate, lasting approximately FOUR MONTHS, June 2008 to November 2008;
68. To the best of My knowledge there were no significant wrongs found in said audit, yet on or about November 2008, the IRS agent sought to summons My said marital estate; and i saw:

NOTICE: 26USC §7605(b) (year 2011):

"No Taxpayer shall be subjected to unnecessary examinations or investigations and only one inspection of a taxpayer's books of account shall be made for each taxable year unless the taxpayer requests otherwise, or unless the Secretary, after investigation, notifies the taxpayer in writing that an additional inspection is necessary."

69. To the best of My knowledge, My marital estate has never received a notification from the "Secretary" "after investigation" indicating that "an additional inspection is necessary", in regards to said November, 2008 summons;

NOTICE:

... the Supreme court enunciated the analytical framework that governs enforcement decisions. First, for the government to establish a prima facie case for enforcement, it must demonstrate that: (1) the

investigation has a legitimate purpose, (2) the information summoned is relevant to that purpose, (3) the documents sought by the tax code are not already in the IRS's possession, and (4) the procedural steps required by the tax code have been followed.

see: US v. LaSalle National Bank, supra. 437 U.S. 298 (1978) [with ...]
US v Genser, 595 F2d 146 (Third Circuit, 1979) at or about section "B." "151"

70. i have neither seen nor been presented with evidence and likewise material fact which demonstrates that all 4 conditions were satisfied by the IRS agent's request/demand for summons hearing of My marital estate;
71. Furthermore, i saw that each and every summons issued against My marital estate and JOHN J FALL cited **"Sec. 7602", "Sec. 7603" and "Sec. 7604" as the authority for said Summons, which i cross-referenced in the "Parrallel Table of Authorities and Rules" to 27CFR, Part 70, sections 70.23 & 70.24 under title of "Alcohol, Tobacco Products and Firearms"** which neither JOHN J FALL nor My marital estate has sold or distributed;
72. Said sections only named an "authorized TTB Officer" yet Kenneth R. Cournoyer, IRS agent indicated next to his signature on the IRS Summons forms that he is a "Revenue Agent";
73. NOTICE: for a more detailed exposure, please see My '**DECLARATION IN THE NATURE OF AN AFFIDAVIT in Support of no criminal and no criminal liability against JOHN J FALL;**' which is filed into this case.
74. Therefore i believed and concluded: that all summons issued against My said marital estate and JOHN J FALL were unlawful and for the wrong kind of tax, **"Alcohol, Tobacco Products and Firearms"**; and motivated by the same retaliation i experienced when IRS agent Tom Quinn ignored My request for help to pay the correct "type of tax", and when i received a demand letter from the non-existent Wesely Gillis, from the same IRS office as said Tom Quinn, and when Diane Riley issued said form 4549 being invalid, unsigned, without a Treasury Seal (per Treasury Order 100-01) and for the wrong kind of tax, **"Alcohol, Tobacco Products and Firearms"**; all as said above;

Jeopardy Assessment as basis for retaliation by way of INDICTMENT

75. i believe the so-called charges shown in INDICTMENT at paragraphs 5., 7., 8., 9., 10, 11, 12., and 13 are based on accusations made in "Notice of Jeopardy Assessment" "Letter 1584(P)" dated July 28, 2010, proffered and signed by William P. Marshall, Director;

Notice: i can provide a copy of said "Notice of Jeopardy Assessment" "Letter 1584(P)"

76. i believe no man or woman, with firsthand knowledge, will verify contrary to the foregoing statement 75.;
77. That in said "Letter 1584(P)" i saw that William P. Marshall refers to himself as an "Area Director";
78. That i saw the "Authority for making" a Jeopardy Assessment is shown at 26USC §301.6861-1(a) (Year 2010) which shows (at 10th sentence):

"A district director will make an assessment under this section if collection is determined to be in jeopardy..." [Emphasis added]

79. The i saw that phrase "Area Director" is not shown in said "Authority for making";

80. i then looked at 26CFR vol18-sec 301-7701-10 (Year 2010) for definition of "district director" and i saw:

"The term district director means the district director of internal revenue for an internal revenue district. The term also includes the Assistant Commissioner (International). [Emphasis added]

81. i saw that the phrase "Area Director" is not shown in said definition of district director;

82. i then looked at 48952 Federal Register/ Vol. 72, No. 165 / Monday, August 27, 2007 and i saw in the middle right hand column, about half way down:

"Those regulations also remove all references to IRS district director or service center director, as these positions no longer exist within the IRS. The offices of the district director and service center director were eliminated by the IRS reorganization implemented pursuant to the IRS Reform and Restructuring Act of 1998." [Emphasis added]

83. i then believed and concluded that enforcement of Jeopardy Assessment does not source from Title 26CFR; and i have neither seen nor been presented with any contrary and verifiable evidence and likewise any material fact; and i believe none exists;

84. i have neither seen nor been presented with evidence and likewise material fact demonstrating there is authority within 26CFR for either initiating or enforcing the Notice of Jeopardy Assessment against JOHN J FALL described above in paragraph 20.) b); and i believe none exists;

85. so, i then read 27CFR Part 70 under title "Alcohol, Tobacco Products and Firearms" at section "§ 70.75 Jeopardy assessment of alcohol, tobacco, and firearms taxes" and i saw:

"(a) If the regional director (compliance) or the Chief, Tax Processing Center believes that the collection of any tax imposed under provisions of 26 U.S.C. enforced and administered by the Bureau will be jeopardized by delay, the regional director (compliance) or the Chief, Tax Processing Center shall, whether or not the time otherwise prescribed by law for filing the return or paying such tax has expired, immediately assess such tax,..." [Emphasis added]

86. i did not see the phrase "Area Director" in said 27CFR Part 70 "§ 70.75;

87. Thus, in Year 2010 and in year 2013 i sent Freedom of Information Act requests to the IRS Disclosure Office to see where William P. Marshall, director, who refers to himself as "Area Director" got his authority to fabricate the charges shown paragraphs 5., 7., 8., 9., 10, 11, 12., and 13 in the INDICTMENT:

88. i obtained a response to My Freedom of Information Act request (F-10267-0051) dated October 8, 2010, which clearly indicated there were "...**no Jeopardy Assessments ...**" against JOHN J FALL; ";

Notice: i can provide that response (F-10267-0051);

89. That means aid response to My Freedom of Information Act request came 60 days approximately 60 days AFTER William P. Marshall issued said "Notice of Jeopardy Assessment ..." "Letter 1584(P)" dated July 28, 2010;

90. Then again in December 2013 i obtained another response to a Freedom of Information Act request to see if said Jeopardy Assessment had become legitimate, and said response (F-14333-0039) indicated:

"We responded to you on October 8, 2010 and again on November 16, 2013 reference case number #F10267-0051. At this time, there are no changes to your account that would produce any additional documents..."; notice: i can provide that response (F-14333-0039);

NOTICE: i can provide copy of said response (F-14333-0039);

91. **i believe said retaliation is the direct result of having hired said John Kotmair who was the head of the pro-Constitution group known as said Save-A-Patriot Fellowship and due to the many complaint letters i had already written to high-ranking overseers of the IRS (many of which, i can provide), which included Eric Holder of the Department of Justice; PLEASE READ MY 'Declaration in the Nature of an Affidavit of obstruction and trespass against My right to due process of law'; and especially read Exhibit 3 adjoined thereto; all of which is filed into said case;**

92. i have neither seen nor been presented with verifiable evidence and likewise material fact which demonstrates that any of the charges in the [fraudulent] "INDICTMENT" in said case are relative to a Kind of Tax other than **Alcohol, Tobacco Products and Firearms under 27CFR Part 70**; and i believe none exists;
93. i have neither seen nor been presented with verifiable evidence and likewise material fact which demonstrates that the IRS' summons and assessments which came upon My wife and our family businesses were for a kind of tax other than **Alcohol, Tobacco Products and Firearms under 27CFR Part 70**; and i believe none exists;
94. i have neither seen nor been presented with verifiable evidence and likewise material fact which demonstrates that either i, JOHN J FALL, My wife Carmen Dolores Sanchez and/or our family businesses (Comfort Dental and Broad Street Investments, LLC have sold and/or distributed any Alcohol, Tobacco Products and/or Firearms under 27CFR Part 70 during the prosecution years; and i believe none exists; Notice: For a more detailed exposure of that issue, please read My **'Declaration in the Nature of an Affidavit in support of no civil and no criminal liability against JOHN J FALL.'**
95. In April, 2010, My wife Carmen Dolores Sanchez, without any competence in federal tax law, filed an action for divorce in Family Court due to the pressures of the IRS against her;
96. The only claim of wrongdoing in her (divorce) affidavit was, that, i had *caused her business to not pay the correct amount of taxes*; which she told me she was parroting from what the IRS agent told her;

97. That in year 2010 both of the two sons, between if i and My wife Carmen Dolores Sanchez, who are Christopher (then 10 years of age) and Nicholas (then 11) and My said wife, had to begin seeking counseling due to said divorce that resulted from IRS pressures:
- a) my sons saw child counselor Carrie Ruggieri and
 - b) My wife saw a psychologist as reported to me by wife and in Family court documents;
98. That we were a happy family before the IRS came into our lives and that neither My children nor My wife obtained any professional counseling for mental issues;
99. That My sons continued to see Carrie Ruggieri for many months;
100. That in that same year 2010, i developed severe cardiomyopathy and pulmonary embolisms from the stress (www.webmd.com/heart-disease/stress-heart-attack-risk): i was rushed by ambulance and hospitalized three times in the year 2010; i nearly died that year in December 2010 in Rhode Island hospital, though i have been a health & exercise enthusiast my entire adult life, with no serious health issues;
101. That i believe said stress was directly caused by the pressure of the IRS pursuing My marital estate, JOHN J FALL, terrorizing My wife; and i believe no man or woman will provide verifiable evidence and likewise material which contradicts the substance of the foregoing;
102. That the 4 doctor letters adjoined to this document as Exhibit 5 (5 pages) are true copies of the originals issued by My doctors and the photograph is a true picture of My chest scar from the 7 and half hour operation at Massachusetts General Hospital;
103. That the very next month, in January, 2011 the Family court by way of its court officer, engineered having myself ejected from my home by threat of jail and without cause, despite my severely poor health condition; and i believe the IRS agent(s) were behind all that; and i believe no man or woman will verify contrary;
104. **My two sons, Christopher (now 14) and Nicholas (now 15) both told me, on or near November 16th, 2013 that their mother who is My wife Carmen Dolores Sanchez said an IRS employee told her she had to divorce me, or she would go to jail for many years and they (the IRS) would take everything**;
105. That on or near December 27th, 2013 i asked My wife Carmen Dolores Sanchez if what our two sons said to me (in the previous paragraph) was true and she said "yes"; she explained briefly to me that she was in terror of our two sons being left destitute and without their parents, as a result of the IRS threats to put us in jail
106. i believe that action by that particular IRS agent(s) is extortion and unlawful; and i believe no man or woman with firsthand knowledge will verify contrary; and i did put the prosecutors of said case on notice of that action by way of My April 4th filing into said case, and yet they continued to harm me by way of said case;
107. My son Nicholas (now 15 years of age) told me in the early part of year 2013 that he had explained his sadness to his child counselor, Carrie Ruggieri in regards to the IRS ordering My wife to divorce me;
108. That on or near September 2013, John N. Kane, prosecutor filed a '**Motion to Seal**' as a basis to have me **arrested and shackled in metal cuffs on My ankles and wrists, though i was 52 years old with no criminal history, though a simple summons was customary for situations like mine where there is no criminal history**; i bleed very easily since i am on high doses of blood thinners (10mg/day) since the last 4 years;

The Motion to Seal showed:

"the Government makes this request for operational security
to prevent unnecessary danger to the officers and defendant
upon arrest and to prevent flight."

109. i believe said arrest by way of metal shackles on my wrists and ankles was a deliberate **and viscous act** especially considering that he admits to knowledge of the Family court documents which show My very poor heart condition and resulted in extreme mental terror to me since i am on very high doses of blood thinners;

110. i believe there is no sound reasoning behind the accusation of: "to prevent flight", especially since My health condition necessitates very high doses of blood thinners and to be near a major hospital; please see:

documentation i filed into said case on April 4, 2014, showing doctor letters which indicate i cannot be exposed to any stress due to the My weakened heart; which i included medical bills for over \$380,000.00 related to said stress and heart condition; (which does not include medical bills for Year 2010 which believe to be well over \$100,000)

111. i **believe that one vicious act of causing me to be shackled instead of sending a simple and customary summons form, all by itself proves the retaliatory nature of the entire case;**

112. That in February 2014, the stress of the false and unsworn charges in the [fraudulent] INDICTMENT and the court allowing the case to go on despite the absence of a claim supported by oath or affirmation by an accuser, i fell further into severe anxiety stress and severe heart palpitations; whereupon i visited My doctor and received prescriptions for two mind-affecting drugs to calm My heart; My doctor wrote a letter for the court warning of the severity of My cardiomyopathy and stress condition; yet, the court allowed the prosecutor to continue to moving their [fraudulent] case in absence of a claim supported by oath or affirmation by an accuser with firsthand knowledge;

113. That in November 2014, i was hospitalized at Massachusetts General Hospital for SIX DAYS complaining of severe heart palpitations from stress and the doctors again continued and increased the prescriptions for My stress and ; yet, the court allowed the prosecutor to continue to moving their [fraudulent] case in absence of a claim supported by oath or affirmation by an accuser with firsthand knowledge;

114. To expose the fraud of said case, i filed a document subtitled " Motion #15" into the case, though I believe no tax debt exists, and therein i offered \$1,000,000.00 (payable in monthly installments) to anyone who will swear under penalty of perjury that i or my wife violated an obligation mandated in specified section of an Act of Congress, pertaining to a specific kind of tax liability; and that was over a year ago and no one has accepted the offer;

115. i have neither seen nor been presented with any verifiable evidence and likewise any material fact which contradicts the substance of any of my statements herein, 1-114; and i believe none exists;

Dispute

i dispute that there is any lawful liability which supports the basis for any of the actions the man and woman who sometimes work for the Internal Revenue Service and Department of Justice had and/or have to target me and my family;

i dispute that there i any contract based on a meeting of the minds, full disclosure, absent fraud and duress, which is a basis for said targeting;

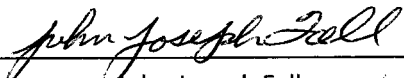

Conclusion

i wish, order and require immediate discharge and termination of case 1:13-cr-135 (and its variations and derivatives of syntax); and immediate restoration of all My property including but not limited to all funds taken from My Marital estate;

FOR THE RECORD, i, [A] MAN, REQUIRE A PROPER RESPONSE TO ALL 115 POINTS ABOVE, IN THIS 'Declaration in the Nature of an Affidavit vindictive and malicious prosecution'; IN REGARDS TO 1:13-CR-135 (AND ITS VARIATIONS AND DERIVATIVES OF SYNTAX) "UNITED STATES OF AMERICA V JOHN J FALL'; SINCE i, A MAN, HAVE BEEN HARMED AND INJURY HAS BEEN DONE TO MY PROPERTY, AND BOTH THE HARM AND INJURY CONTINUE, AS STATED THROUGHOUT THIS AFFIDAVIT, containing pages 1-17.

There are *ONE HUNDRED AND FIFTEEN (115)* statements of facts numbered within in the foregoing pages of this EIGHT (17) page document titled 'Declaration in the Nature of an Affidavit vindictive and malicious prosecution'; thus i require both said John N. Kane, Jr. and 'UNITED STATES OF AMERICA' must rebut *all 115 statements* point-by-point and send to i within the sooner of: a) at least 2 days prior to any hearing and or trial, or b) three (3) days from of delivery-receipt and/or tracking indicating your receipt of this document, plus one day to send said rebut[tal] by overnight mail to i (4 days total); Failure to provide to i, said rebut[tal] as said, indicates Your full-knowing, unreserved and unconditional agreement to such point(s) and that said points stand as uncontroverted evidence;

i, [a] man now affix my signature to these affirmations.

By:  
John Joseph Fall 1/7/15 (SEAL)

This verifiable certificate is part of 17-page document (including this page), dated January 6, 2014, titled:

'Declaration in the Nature of an Affidavit vindictive and malicious prosecution'

AFFIDAVIT/JURAT CERTIFICATE

County of Providence } ss.

State of Rhode Island }

On this 7th day of January, 2015, before me, the undersigned notary public, personally appeared the man, John Joseph Fall, who i verify proved to me through satisfactory evidence of identification, which were driver's license with his photograph, to be the man who signed the preceding or attached document in my presence, **and who swore or affirmed in living-voice to me that the contents of the document are truthful, accurate and without intent to mislead to the best of his knowledge and belief.**

Sandy L. Paul

Printed Name: Sandy L. Paul, Notary Public

My Commission Expires: 05/27/2018